United Nations A/62/953–S/2008/544

General Assembly
Security Council

Distr.: General
9 September 2008

Original: English

General Assembly
Sixty-second session
Agenda item 16
Protracted conflicts in the GUAM area and their implications for international peace, security and development

Security Council
Sixty-third year

Identical letters dated 9 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to transmit the texts of Ordinance No. 402 of the President of Georgia (annex I), the letter of the Minister for Foreign Affairs of Georgia (annex II) and the decision of the Parliament of Georgia of 9 August 2008 on the Declaration of the State of War on the Whole Territory of Georgia and Full Mobilization (annex III).

I should be grateful if the present letter and its annexes could be circulated as documents of the sixty-second session of the General Assembly, under agenda item 16, "Protracted conflicts in the GUAM area and their implications for international peace, security and development", and of the Security Council.

(*Signed*) Irakli **Alasania**
Ambassador
Permanent Representative

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Annex I to the identical letters dated 9 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

It is an honour and privilege to address you. I would like to inform you of the following issue:

On August 9, 2008, the President of Georgia invoked his right under Articles 73 (1) (f) and 46 (1) of the Constitution of Georgia and declared the state of war on the whole territory of Georgia for 15 days by Ordinance No. 402. On the same day, the declaration of the state of war was approved by the Parliament of Georgia.

The decision was made after military aggression of the Russian Federation against Georgia on August 8, 2008 that continue as for today. As a result of invasion, civilian objects, hospitals, residential sites and critical infrastructure have been bombed throughout the country causing casualties among civilian population and destruction of property.

Under these circumstances, the right of self-defence remained the only adequate and necessary measure, as proclaimed by Article 98 of the Constitution of Georgia, Article 51 of the United Nations Charter and customary international law. Therefore, the necessity existed to resort to use of force with the aim of putting an end to the armed attacks and avoiding further escalation of the situation.

No derogation from any of the rights guaranteed by the International Covenant on Civil and Political Rights has been declared at this stage. In case there is such a necessity, the Government of Georgia will inform the United Nations in due course.

We will keep you informed about any further developments on the issue.

The copy of Presidential Ordinance No. 402 on Declaration of the State of War on the Whole Territory of Georgia and Full Mobilization is attached.

(*Signed*) Eka **Tkeshelashvili**

Annex II to the identical letters dated 9 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

Ordinance of the President of Georgia on the Declaration of the State of War on the Whole Territory of Georgia and Full Mobilization

No. 402 *9 August 2008* *Tbilisi*

In the last few days, the situation in the former Autonomous Region of South Ossetia has been deteriorated. The separatist forces are violating human rights and fundamental freedoms on massive scale. Armed attacks and violence against civilians take place. As a result of the above-mentioned actions, human casualties are registered among civilians as well as peacekeepers. Tens of civilians are wounded and their property destroyed.

Despite the unilateral decision of the Government of Georgia to cease fire and the offer of peace talks, the separatists launched massive scale attacks against civilian population on August 7-8, 2008. The Government of Georgia has taken necessary and proportionate measures to stop an armed attack.

The activities of the separatist forces in the territory of Georgia have been actively supported by the Russian Federation. In particular, on August 8, hundreds of armed personnel and armored vehicles entered the territory of Georgia through Roki tunnel.

On August 8, fighter jets of the Russian Federation intruded into airspace of Georgia on multiple occasions and carried out bombardments of cities of Kareli, Gori and the adjacent villages ; They also bombed the villages of Tskhinvali region, Vaziani Military Base and Marneuli Military Aerodrome. The battacks caused casualties among civilian population and the destruction of buildings.

Later, Senaki Airport, Senaki Military Base and Railway Station, as well as Poti Sea Port, Ship-building Factory, railway join were bombed. On August 9, Kopitnary airport, Gori Railway Station and civilian houses were bombed, which caused civilian casualties. During last hours the Russian Federation pursued its aggressive activities in Abkhazia. Majority of the above territories are situated 200-300 km away from Tskhinvali region. Consequently, the aggressive armed attack of the Russian Federation went far beyond the conflict territory and involves practically the whole territory of Georgia.

In light of all the above mentioned, it is evident that Russian Federation is carrying out indirect as well as direct armed attack against Georgia.

Indirect attack is materialized by the full support of the separatist forces , provision of armed equipment and ammunitions, committed by Russian officials holding high level posts in the self proclaimed republic of South Ossetia (Minister of Defense, Interior Minister, Secretary of Security Council, Prime Minister). Direct attack by the Russian Federation is evident from active, intensive and continuous armed activities that, *inter alia*, included violation of airspace of Georgia on multiple occasions and massive bombardments. The Black Sea military fleet and infantry units have been used

as well. These actions, by their nature and scale, are in full compliance with the definition of armed attack recognized by international law and should be qualified as such.

In these circumstances, the right of self-defense remains the only adequate and necessary measure, as proclaimed by the Article 98 of the Constitution of Georgia, Article 51 of the UN Charter and customary international law. Therefore, the necessity exists to resort to use of force that is aimed at putting an end to the armed attack and to avoid further escalation of the situation.

Due to the current circumstances, in order to avoid destabilization in the region, to suppress armed attacks and violence against civilian population, to ensure the protection of human rights and freedoms, pursuant to Article 73 (1)(g), Article 98 and Article 100 (1) of the Constitution of Georgia, the law of Georgia on State of War and Article 6 (a) of the law of Georgia on Mobilization:

1. State of war on the whole territory of Georgia shall be declared.

2. State of war shall remain in force for the period of fifteen (15) days.

3. In relation to the State of war, full mobilization shall be declared and Military Forces shall be used to suppress an armed attack.

4. The Decree shall be immediately published through mass media and afterwards (for a period of one day) shall be repeatedly transmitted on Public Broadcaster every two (2) hours;

5. The Decree shall be submitted to the Parliament of Georgia for approval within forty-eight (48) hours.

6. The Ministry of Foreign Affairs of Georgia (E. Tkeshelashvili) shall immediately inform the Secretary-General of the United Nations, the Secretary-General of the Council of Europe, other respective international organizations and the Heads of the accredited diplomatic missions to Georgia about the declaration of Martial law.

7. The present Decree shall enter into force upon signature and be immediately published in the Official Gazette.

President of Georgia **Mikheil Saakashvili**

Annex III to the identical letters dated 9 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

Decision of the Parliament of Georgia

On the endorsement of Ordinance No. 402, Decree of the President of Georgia, 9 August 2008, on the Declaration of the State of War on the Whole Territory of Georgia and Full Mobilization

The Parliament of Georgia decides:

1. In accordance with Article 62, Article 100 (l) of the Constitution of Georgia, of Article 2 (2) of the Law of Georgia "On the State of War", Article 238 (l) and Article 239 (l) of the Regulation of the Parliament of Georgia, to endorse N402 Decree of the President of Georgia, 9 August 2008, "On Declaration of the State of War on the Whole Territory of Georgia and the Full Mobilization";

2. That the decision shall come into force immediately.

David **Bakradze**
Chairman of the Parliament of Georgia

Tbilisi
9 August 2008